



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ELIOT SPITZER
ATTORNEY GENERAL

DIVISION OF PUBLIC ADVOCACY
ENVIRONMENTAL PROTECTION BUREAU

January 27, 2006

Hon. David R. Homer
U.S. Magistrate Judge
Northern District of New York
445 Broadway
Room 441
Albany, New York 12207

Re: James W. McCulley v. N.Y.S Dep't of Environmental Conservation, et al.
05-CV-00811 (LEK/DRH)

Dear Judge Homer:

Pursuant to your November 10, 2005 Order, with regard to an evidentiary hearing scheduled to commence before you on February 2, please find attached Defendants' Witness List and List of Exhibits.

Additionally, Defendants' Pre-hearing Memorandum of Law is enclosed. Attached to the memorandum is a copy of Kern v. Clark, 2004 WL 941418 (W.D.N.Y.).

Respectfully submitted,

DAVID A. MUNRO
Assistant Attorney General
Bar Roll No. 102968
(518) 474-8481
david.munro@oag.state.ny.us

cc: Matthew D. Norfolk, Esq.- attorney for Plaintiff

James W. McCulley v. N.Y.S Dep't of Environmental Conservation, et al.
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Defendants' Exhibit List

(1) six photographs, all taken by Department of Environmental Conservation forest ranger (and defendant) Joseph LaPierre on May 22, 2005; and

(2) several pages from the 1979, 1987 and 2001 Adirondack Park State Land Master Plans (all developed by the Adirondack Park Agency pursuant to §816 of the Executive Law and former §807 of the Executive Law) pertaining to the Sentinel Range Wilderness area.

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Defendants' Witness List

1. Kenneth R. Hamm, Esq., Associate Attorney in DEC's Division of Legal Affairs
2. Robert K. Davies, Esq., Director of DEC's Division of Lands and Forests

